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Senate Bill 105 (Substitute S-3 as reported by the Committee of the Whole)
Senate Bill 106 (Substitute S-3 as reported by the Committee of the Whole)
Senate Bill 107 (Substitute S-3 as reported by the Committee of the Whole)
Sponsor: Senator Tonya Schuitmaker (S.B. 105 & 106)
Senator Rick Jones (S.B. 107)
Committee: Judiciary

CONTENT

Senate Bill 105 (S-3) would amend the DNA Identification Profiling System Act to require the collection of a DNA sample from anyone arrested for committing or attempting to commit a felony or an offense that would be a felony if committed by an adult. This would be in addition to current provisions for the collection of DNA samples from certain prisoners, convicted offenders, and juvenile offenders, and the analysis of those samples.

The Act requires DNA samples to be forwarded to the Michigan Department of State Police (MSP). The bill would require a DNA sample to be forwarded after the individual from whom it was collected was arraigned, and would prohibit a person's DNA sample from being forwarded if the person were not charged with committing or attempting to commit a felony or an offense that would be a felony if committed by an adult.

Under the Act, if a sample was collected from an individual who does not have more than one conviction, and that conviction was reversed by an appellate court, the individual may petition the sentencing court to order the disposal of the sample and DNA identification profile record for that conviction. Under the bill, the court would be required to order the disposal of the sample and profile record under these circumstances, and the individual would not have to petition the court.

Senate Bill 106 (S-3) would amend the juvenile code to require an individual to provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and to provide samples for chemical testing for a determination of his or her secretor status if the individual were arrested for committing or attempting to commit a felony or an offense that would be a felony if committed by an adult. Currently, the requirements to provide samples for chemical testing apply to an individual found responsible for certain violations and an individual convicted of a felony or a specified misdemeanor.

The bill would delete a requirement that the MSP report annually to the Legislature regarding DNA collection and identification. It also would delete a provision specifying the purposes for which DNA samples may be disclosed.

Senate Bill 107 (S-3) would amend the Michigan Penal Code to require a person to provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and to provide samples for chemical testing if he or she were arrested for committing or attempting to commit a felony or an offense that would be a

felony if committed by an adult. That requirement currently applies to a person arrested for a violent felony as defined in the Corrections Code. (That definition includes various assault offenses; first-degree murder, second-degree murder, and manslaughter; kidnapping; hostage-taking by a prisoner; mayhem; first-, second-, third-, or fourth-degree criminal sexual conduct (CSC); assault with intent to commit CSC; carjacking; and use of force or violence or possession of a weapon, during the course of committing larceny.)

All three bills would reinstate a \$60 assessment that courts were required to order before October 1, 2003, for each individual found responsible for or convicted of a crime for which DNA sample collection is required, and a requirement that 65% of the revenue from that assessment go to the State Treasurer for deposit in the Justice System Fund.

The bills are tie-barred and would take effect on July 1, 2015.

MCL 28.172 et al. (S.B. 105)
712A.18k (S.B. 106)
750.520m (S.B. 107)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate, yet minor fiscal impact on State and local law enforcement agencies. Under current law, the 23 violent felony arrests that require the collection of DNA samples generate approximately 3,000 samples annually. The bills would require the collection of a DNA sample from anyone arrested for committing or attempting to commit any felony. The MSP estimates that in 2012 there were approximately 12,000 individuals arrested for all felonies who did not already have a DNA sample on file. The MSP is unable to determine how many of these arrestees were ultimately convicted, which, under current law, would require collection of DNA samples.

Of the approximately 12,000 individuals arrested in 2012 for all felonies who had not yet had DNA samples taken, 3,000 were already subject to collection under current law, others would be subject to collection upon conviction, and yet others would be counted more than once if a person had been arrested for more than one felony in a year. Therefore, it is possible to estimate that an additional 7,000 to 8,000 felony arrestees would be subject to DNA collection under the bills.

The cost associated with these additional DNA collections would include the cost of a DNA collection kit; the labor, primarily at the local law enforcement level, to obtain the sample; and laboratory workers at the MSP lab to process and analyze (and in certain instances remove and destroy) the sample. The DNA kits cost \$7.50 each and are provided without charge by the MSP to law enforcement agencies. The additional kits could cost the MSP up to \$60,000, although the Department has stated that it is confident it would be able to pay for most, if not all of these costs with Federal grant funds, which have funded kit purchases in the past. Local law enforcement agencies would be required to administer additional mouth-swab DNA collections, a simple procedure that should not significantly increase their costs. Regarding the additional State crime lab processing and analysis that would be required, the Department has stated that it could handle the additional workload with current resources.

Date Completed: 6-9-14

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.